

Traffic Safety Facts

Laws

March 2005

Repeat Intoxicated Driver Laws

Background

The National Highway Traffic Safety Administration (NHTSA) at the U.S. Department of Transportation encourages States to implement repeat intoxicated driver laws.

Key Facts

- In 2002, motor vehicle crashes are the leading cause of death for every age from 3 to 33.
- Alcohol-related crashes account for a substantial portion these deaths. Alcohol was involved in 40 percent of fatal crashes in 2003.
- About every 31 minutes, someone is killed in the United States in an alcohol-related crash.
- Alcohol-related crashes in the United States cost the public more than \$50 billion in 2000, and 81 percent of these costs

occurred in crashes where a driver or non-occupant had a BAC of .10 or higher.

- Repeat offenders make up a large portion of the impaired driving problem. About one-third of all drivers arrested for driving while intoxicated or driving under the influence of alcohol (DWI) have a previous DWI conviction.
- Intoxicated drivers with prior DWI convictions have 4.1 times the risk of being in a fatal crash as opposed to intoxicated drivers without prior DWIs. Fatal crash risk increases with the number of prior DWI arrests.
- Impaired driving is the most frequently committed violent crime in the United States.
- Drivers with prior DWI convictions are over-represented in fatal crash statistics and have a greater relative risk of involvement in fatal crashes.

North Carolina, Colorado, and Utah experienced significant reductions in alcohol-related fatal crashes following enactment of administrative license revocation procedures. The studies support the notion that license sanctions deter repeat DWI offenders from driving. Although many repeat intoxicated drivers continue to drive without a license after their license has been revoked, studies have shown that those who do drive tend to drive less frequently and more carefully. For further information about license sanctions, see NHTSA *Traffic Safety Fact Sheet-Administrative License Revocation*.

Additional sanctions, including a variety of vehicle sanction programs have been applied successfully to deter repeat DWI offenses. For example, California's vehicle impoundment program resulted in 34 percent fewer repeat offenses, 22 percent fewer traffic convictions, and 38 percent fewer crashes for repeat offenders whose vehicles were impounded compared to a group of repeat offenders whose vehicle were not impounded. A study of interlock devices in Maryland found that participation in an interlock program decreased the risk of DWI recidivism by 65 percent. These programs are successful because they prevent many repeat DWI offenders from driving by either separating them from their vehicles or requiring them to be alcohol-free when they drive.

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How Effective are Repeat Intoxicated Driver Laws?

Research has shown that driver-licensing sanctions have a significant impact on impaired driving in general. Licensing sanctions imposed under State administrative licensing revocation systems (not the criminal justice system) have resulted in reductions in alcohol-related fatalities of between 6 and 9 percent. According to a NHTSA study, Illinois, New Mexico, Maine,

For more information about vehicle sanctions, see NHTSA's Traffic Safety Fact Sheet - Vehicle and License Plate Sanctions.

Programs that focus on individuals' alcohol-related behavior also have been successful. Milwaukee's Intensive Supervision Probation program, which includes monitoring of behavior, has cut recidivism by nearly 50 percent (from 11 percent to 6 percent). A study of a financially self-sufficient DWI facility in Prince George's County, Maryland, where residents pay for their stay, showed that its recidivism rate during a 5-year period was 8 percent, compared with 35 percent for other programs.

A "DWI Court," based on the Drug Court model, is being evaluated in Maricopa County (Phoenix), Arizona. The evaluation involved the assignment of repeat offenders, after serving 3 months of hard jail time, to either a special DWI Court, or a traditional probation service. The DWI Court is a special form of intensive supervision that involves both the judge and the local probation department that requires sobriety, frequent testing and close supervision of offenders. Completion of this study, jointly funded with the Department of Justice, is expected in 2005.

Repeat Intoxicated Driver Laws Programs

In 1998, as part of the Transportation Equity Act for the 21st Century

(TEA-21) Restoration Act, a Federal program was established to encourage States to address the problem of the repeat intoxicated driver.

Section 164 of 23 U.S.C. requires that States have certain repeat intoxicated driver laws in place; if not, a portion of the State's annual Federal-aid highway construction funds will be redirected into the State's Section 402 appropriation. Transferred funds may be used for alcohol-impaired driving countermeasures, enforcement of drunk driving laws, or the State's roadway hazard elimination program under Section 152.

To comply with the Federal program under Section 164, the State law must establish a minimum penalty for individuals convicted of a second or subsequent offense for driving while intoxicated or driving under the influence, and must:

- Require a minimum one-year driver's license suspension;
- Require that all motor vehicles of repeat intoxicated drivers be impounded or immobilized for a specified period during the license suspension period, or require the installation of an ignition interlock system on all motor vehicles of such drivers for a specified period after the suspension is completed;
- Require the mandatory assessment of the offender's degree of alcohol abuse

and referral to treatment as appropriate; and

- Establish a mandatory minimum sentence;
 - ▼ Of not less than five days of imprisonment or 30 days of community service for a second offense; and
 - ▼ Of not less than ten days of imprisonment or 60 days of community service for a third or subsequent offense.

Under the program, a repeat intoxicated driver is defined as a person convicted of driving while intoxicated or driving under the influence of alcohol more than once during any 5-year period. Thus, States must maintain records of DWI convictions for at least five years. To avoid the transfer of designated Federal-aid highway construction funds, States must certify that their laws comply with each of the criteria specified above.

The transferred amount for States not in compliance is 1.5 percent of certain State Federal-aid highway construction funds for fiscal years 2001 and 2002 and 3 percent for fiscal year 2003 and later.

Congress is currently considering the reauthorization of the TEA-21 legislation. Discussion of any proposed modifications to the existing law is premature until the reauthorization process has been completed.

Which States Have Federally Compliant Repeat Offender Laws?

As of December 2004, 36 States and the District of Columbia have met the requirements of Section 164:

Alabama	Michigan
Arizona	Mississippi
Arkansas	Missouri
Colorado	Montana
Connecticut	Nebraska
Delaware	Nevada
District of Columbia	New Hampshire
Florida	New Jersey
Georgia	New York
Hawaii	North Carolina
Idaho	Oklahoma
Illinois	Pennsylvania
Indiana	South Carolina
Iowa	Tennessee
Kansas	Texas
Kentucky	Utah
Maine	Virginia
Maryland	Washington
	Wisconsin

Information Sources

"California Impounds The Vehicles of Motorists Caught Driving Without A Valid License." *Traffic Tech*, No. 180, July 1998.

Beck, Kenneth H., et al. *Effects of Alcohol Ignition Interlock License Restrictions on Multiple Alcohol Offenses: A Randomized Trial in Maryland*. American Journal of Public Health, Vol. 89, No.11, 1696-1700 (November 1999)

Fact Sheet-Administrative License Revocation. NHTSA, January 2005.

Fact Sheet-Vehicle and License Plate Sanctions. NHTSA, January 2005.

These reports and additional information are available from your State Highway Safety Office, the NHTSA Regional Office serving your State, or from NHTSA Headquarters, Impaired Driving and Occupant Protection Office, ATTN: NTI-111, 400 Seventh Street, S.W., Washington, DC 20590; 202-366-2683; or NHTSA's web site at www.nhtsa.dot.gov



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